

Louis S. Ederer (LE 7574)
John Maltbie (JM 3658)
ARNOLD & PORTER LLP
399 Park Avenue
New York, New York 10022
Phone (212) 715-1000
Fax (212) 715-1399

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
GUCCI AMERICA, INC.,

Plaintiff,

- against -

JENNIFER GUCCI, JENCO DESIGNS, LLC,
JENNICOR, LLC, JENNY GUCCI COFFEE
AND GELATO COMPANY, INC., EDWARD
LITWAK d/b/a ED LITWAK & ASSOCIATES,
GEMMA GUCCI, GEMMA GUCCI COFFEE
AND GELATO COMPANY, INC., ABC
CORPORATIONS 1-10, and JOHN DOES 1-10,

Defendants.
----- X

Civil Action No. 07 Civ. 6820 (RMB)

**PLAINTIFF'S REPLY
MEMORANDUM OF LAW IN
FURTHER SUPPORT OF ITS
MOTION *IN LIMINE* TO
PRECLUDE TESTIMONY OF
DEFENDANT JENNIFER GUCCI
CONCERNING SPOILIATED
EVIDENCE**

EXHIBIT C



"Martin Simone"
<msimone@simrooslaw.com>

08/31/2007 03:51 PM

To Alan Veronick/Atty/NY/ArnoldAndPorter@APORTER
cc John Maltbie/Atty/NY/ArnoldAndPorter@APORTER, Louis
Ederer/Atty/NY/ArnoldAndPorter@APORTER, Melanie
Hanson Sartoris/Atty/LA/ArnoldAndPorter@APORTER

bcc

Subject RE: Gucci v. Jennifer Gucci

Mr. Veronick:

I was aware of your inadvertence and the inspection can take place on Tuesday, 9-4-07, at noon to 2:00 P.M. or 4:00 P.M. to 6:00 P.M.

We will make copies for you of all the documents that are available for inspection. We will Bates stamp the copies starting at 1000. The documents are not voluminous; but if you need more time for inspection, we will accommodate you.

So far we have only one document in the privilege log. It is an attorney letter from a prior matter.

We will provide our responses to the document requests by email today in addition to US Mail service.

Sincerely,

Martin Simone

-----Original Message-----

From: Alan_Veronick@aporter.com [mailto:Alan_Veronick@aporter.com]
Sent: Friday, August 31, 2007 10:54 AM
To: msimone@simrooslaw.com
Cc: John_Maltbie@aporter.com; Louis_Ederer@aporter.com;
Melanie_Hanson_Sartoris@aporter.com
Subject: Fw: Gucci v. Jennifer Gucci

Mr. Simone

I inadvertently indicated in my message below that the inspection would take place on Monday. Of course, since Monday is a holiday, we are willing to come to your offices on Tuesday for the inspection. I apologize.

Alan C. Veronick
Arnold & Porter LLP
Phone: (212) 715-1126
Fax: (212) 715-1399
Email: alan.veronick@aporter.com

----- Forwarded by Alan Veronick/Atty/NY/ArnoldAndPorter on 08/31/2007 01:48 PM -----

Alan
Veronick/Atty/N
Y/ArnoldAndPort
er
NY - 3620
212-715-1126

"Martin Simone"
<msimone@simrooslaw.com>

To

cc

08/31/2007
01:44 PM

John
Maltbie/Atty/NY/ArnoldAndPorter@
APORTER, Louis
Ederer/Atty/NY/ArnoldAndPorter@A
PORTER, Melanie Hanson
Sartoris/Atty/LA/ArnoldAndPorter
@APORTER

Subject
RE: Gucci v. Jennifer Gucci
(Document link: Alan Veronick)

Mr. Simone

I am writing you in follow-up to the voice mail message I left you earlier today concerning your clients document production.

Please be advised that we are willing to come to your office in Los Angeles on Monday afternoon in order to inspect the samples of the labels and/or products being produced by your clients. As far as the documents that your clients are producing, please advise as to whether you have prepared a copy of those documents or are expecting us to make our own copy. As for the discovery responses, we look forward to receiving a copy of your responses by e-mail today.

Kind Regards,

Alan C. Veronick
Arnold & Porter LLP
Phone: (212) 715-1126
Fax: (212) 715-1399
Email: alan.veronick@aporter.com

"Martin Simone"
<msimone@simroo
slaw.com>

08/30/2007
06:15 PM

To
Louis
Ederer/Atty/NY/ArnoldAndPorter@A
PORTER

cc

John
Maltbie/Atty/NY/ArnoldAndPorter@
APORTER, Alan
Veronick/Atty/NY/ArnoldAndPorter
@APORTER, Melanie Hanson
Sartoris/Atty/LA/ArnoldAndPorter
@APORTER, <rkf@fkslaw.net>

Subject
RE: Gucci v. Jennifer Gucci

Dear Mr. Ederer:

Please excuse the delay in our providing a response to the document requests for Ms. Gucci, Mr. Litwak and their related entities ("J. Gucci Defendants"). The primary reason for the delay is our clients' securing representation in New York as our firm is not admitted to practice before the Federal Court in New York, so we cannot enter an appearance as requested without the assistance of local counsel, the retention of which we understand is imminent. We intend to continue to represent the J. Gucci Defendants in this matter to the extent that we are able including the forthcoming depositions. The schedule that you proposed is acceptable to me, except for September 10 and 14, 2007. I am available with my clients on September 11,12,13,17,18 and 19 as of today. Please provide a proposed schedule at your earliest convenience.

In the interim this office will provide responses to the document requests by August 31, 2007 via email and US mail to your office; however, we will be unable to provide verifications until next week because our clients are presently traveling and unavailable.

We have the documents which will be available for inspection in our offices on September 4, 2007 in the afternoon. This office will provide a copy of all documents to be inspected at the time of the inspection. The documents are not voluminous and we will make any reasonable accommodation regarding inspection. Our office is not far from your Los Angeles office.

I am authorized to accept service for all the J. Gucci Defendants as currently identified in the pleadings.

I believe that I have addressed all the matters in your email. I will wait for your further reply.

Sincerely,

Martin Simone

-----Original Message-----

From: Louis_Ederer@aporter.com [mailto:Louis_Ederer@aporter.com]
Sent: Thursday, August 30, 2007 12:29 PM
To: Martin Simone
Cc: John_Maltbie@aporter.com; Alan_Veronick@aporter.com;
Melanie_Hanson_Sartoris@aporter.com

Subject: RE: Gucci v. Jennifer Gucci

Dear Mr. Simone:

Please see the attached letter. Please immediately advise as to your intentions for serving your responses to our document requests (now three days late under the Court's order), and your document production, due September 4. Please copy my colleagues Alan Veronick and Melanie Hanson Sartoris on all correspondence.

As I have advised Mr. Fisher, we intend to proceed with depositions at our LA office later in the week of September 10, and possibly into the early part of the week of September 17. Please advise as to the availability of your clients in that date range.

Also, we still haven't received a copy of your appearance in this action, which we do not believe has been filed with the Court. As requested by Judge Francis' clerk, please serve your appearance promptly.

Finally, you indicated previously that you would be representing the Jennifer Gucci defendants and would be prepared to accept service of the complaint on their behalf. Please confirm this so that we can proceed with the service (or perhaps we can deem service on Litwak to cover Jennifer Gucci as well).

We look forward to your early reply.

Yours truly,

Louis S. Ederer
Arnold & Porter LLP
399 Park Avenue
New York, New York 10022
Tel: 212-715-1102
Fax: 212-715-1399
Email: louis.ederer@aporter.com
www.arnoldporter.com

(See attached file: Letter to Fisher _ Simone_ (NY_324854_1).PDF)

"Martin Simone"
<msimone@simroo
slaw.com>

08/13/2007
06:59 PM

To
John
Maltbie/Atty/NY/ArnoldAndPorter@
APORTER, "'rkf'"
<rkf@fkslaw.net>

cc

Louis
Ederer/Atty/NY/ArnoldAndPorter@A
PORTER

Subject
RE: Gucci v. Jennifer Gucci

John,

I have read and reviewed the latest revised version of the TRO. I consent to your submitting it to Judge Francis for signature without further comments or changes from the Jennifer Gucci defendants.

I am sorry that I missed the Saturday telephone conference as I was unable to access your email on the scheduling so I was unaware of the conference.

Regards,

Martin Simone

-----Original Message-----

From: John_Maltbie@aporter.com [mailto:John_Maltbie@aporter.com]
Sent: Saturday, August 11, 2007 11:16 AM
To: Martin Simone; rkf
Cc: Louis_Ederer@aporter.com
Subject: Re: Gucci v. Jennifer Gucci

Mr. Simone:

We have just spoken to Mr. Fisher who has indicated that we may submit the proposed TRO to Judge Francis for signature on Monday. Please let us know if you also consent or if you have any additional comments as soon as possible.

Mr. Fisher has also provided us with his comments regarding the proposed protective order. Please let us have your comments on this as well as soon as you can as we would like to also submit it to Judge Francis.

Regards,

John Maltbie
John Maltbie
Arnold & Porter LLP

----- Original Message -----

From: "Martin Simone" [msimone@simrooslaw.com]
Sent: 08/09/2007 07:37 PM
To: <John_Maltbie@aporter.com>; <rkf@fkslaw.net>; "'Duvdevani, Tamar'" <tduvdevani@nixonpeabody.com>
Cc: <Louis_Ederer@aporter.com>
Subject: RE: Gucci v. Jennifer Gucci

John and Lou:

I have spoken this evening with Kevin who is in trial all day

tomorrow. He will contact you for a follow up conference re finalizing the TRO.

I will be available Saturday morning PDT in order to facilitate a resolution. I believe that Kevin will also be available, but he will contact you to confirm.

Regards,

Martin Simone

-----Original Message-----

From: John_Maltbie@aporter.com [mailto:John_Maltbie@aporter.com]
Sent: Thursday, August 09, 2007 5:17 PM
To: msimone@simrooslaw.com; rkf@fkslaw.net; Duvdevani, Tamar
Cc: Louis_Ederer@aporter.com
Subject: Gucci v. Jennifer Gucci

All:

Attached please find a proposed protective order. We would like to follow up with you (particularly Mr. Fisher and Mr. Simone) regarding the proposed order resolving the expedited discovery issues. If you could please let us know your availability tomorrow afternoon, we will try to arrange a conference call.

Regards,

John Maltbie

Arnold & Porter LLP
399 Park Avenue
New York, New York 10022
Ph: (212) 715-1103
Fx: (212) 715-1399

john.maltbie@aporter.com

(See attached file: Jennifer Gucci - Protective Order_(NY_321767_1).DOC)

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John Maltbie
Arnold & Porter LLP
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New York, NY 10022-4690

John_Maltbie@aporter.com
Telephone: 212-715-1103
Fax: 212-715-1399

For more information about Arnold & Porter LLP, click here:
<http://www.arnoldporter.com>

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